

**IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF OHIO  
WESTERN DIVISION**

**MARCUS FONTAIN,**

**Plaintiff,**

**v.**

**HARJINDER SANDHU et al.**

**Defendants.**

**Case No. 1:22-cv-00124**

**Judge Douglas R. Cole  
Magistrate Judge Karen L. Litkovitz**

**Sandhu Defendants' Motion to Strike  
Plaintiff's Traverse and Motion for  
Equitable Relief on Renewed Request for  
Fees**

Defendants' Harjinder Sandhu, Jasreen Sandhu and Brian J. O'Connell ("the Sandhu Defendants") move this Court for an Order to Strike "Plaintiff's Traverse and Motion for Equitable Relief on Renewed Request for Fees by Brian O'Connell," filed by Plaintiff Marcus Fontain on September 21, 2022. As explained in the attached Memorandum in Support, Mr. Fontain's filing is in essence a Sur- Reply Memorandum which is not permitted by the Federal Rules or the Local Rules of the Southern District of Ohio, and because Mr. Fontian has not sought leave before filing, it should be stricken.

Respectfully submitted,

/s/ Brian J. O'Connell

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### **MEMORANDUM IN SUPPORT**

This Court having found that Mr. Fontain's removal of the above action lacked an "objectively reasonable basis," the Court invited the Sandhu Defendants to file an Application for the Attorney's Fees incurred in seeking the remand of this case to state court. See Opinion and Order, 8/4/22 (Doc.17). The Sandhu Defendants filed their Application for Fees on August 8, 2022. Mr. Fontain filed his Opposition on September 8, 2022, and the Sandhu Defendants filed their Reply Memorandum on September 16, 2022. Mr. Fontain has responded by filing an additional brief directed to the Sandhu Defendants Application for Attorney's Fees, which Mr. Fontain captioned as "Plaintiff's Traverse and Motion for Equitable Relief on Renewed Request for Fees by Brian O'Connell". (Doc. 23).

Mr. Fontain's most recent filing is not permitted by the Federal Rules of Civil Procedure or by the Local Rules of the Southern District of Ohio and should be stricken. Pursuant to Rule 7.2(a)(2) a party may file its opposing brief within 21 days (which Mr. Fontain did), and the movant may file its reply brief 14 days thereafter (which the Sandhu Defendants did). The Rule specifically provides that "no additional memorandum beyond those in numerated are permitted except above leave of Court for good cause shown." S.D. Ohio L.R.7.2(a)(2).

Because Mr. Fontain did not obtain leave of court before filing what was essentially a Sur-Reply Memorandum with respect to the Sandhu Defendants' Application for Fees, it is in violation of Rules 7.2 and should be stricken. In the final analysis, if Mr. Fontain is indeed prepared, as he states, to "accept full responsibility for misinterpretation of the law" (Doc. 23 at 1), then Mr. Fontain should have no hesitation in agreeing to reimburse

the Sandhu Defendants for the attorney's fees resulting from Mr. Fontain's mistake. Mr. Fontain's most recent brief should be stricken, and this Court should order Mr. Fontain to reimburse the Sandhu Defendant's for the fees itemized in the Sandhu Defendant's Application for Fees.

Respectfully submitted,

/s/ Brian J. O'Connell

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### **CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing has been filed electronically with the U.S. District Court this 29<sup>th</sup> day of September 2022. Notice of this filing will be sent to all parties by operation of the Court's electronic filing system. Parties may access this filing through the Court's system. Notice of this filing will also be sent to Plaintiff, Marcus Fontain via U.S. Mail at 9378 Mason Montgomery Road #425, Cincinnati, OH 45040 and via email at [marcus@mfontain.com](mailto:marcus@mfontain.com).

/s/ Brian J. O'Connell

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